

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)

ADOPTED AS AMENDED _____ (Y/N)

ADOPTED W/O OBJECTION _____ (Y/N)

FAILED TO ADOPT _____ (Y/N)

WITHDRAWN _____ (Y/N)

OTHER

1 Committee/Subcommittee hearing PCB: Civil Justice Subcommittee
2 Representative(s) Civil Justice Subcommittee offered the
3 following:
4

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (11) is added to section 501.170,
8 Florida Statutes, as created by HB _____, 2014 Regular Session,
9 to read:

10 501.170 Security of confidential personal information.—

11 (11) PUBLIC RECORDS EXEMPTION.—

12 (a) All information received by the department pursuant to
13 notifications required by this section, or received pursuant to
14 a subsequent investigation by the department or another federal
15 or state law enforcement agency, is confidential and exempt from
16 s. 119.07(1) and s. 24(a), Art. I of the State Constitution, so
17 long as the investigation is considered an active investigation.

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18 This exemption shall be construed in conformity with s.
19 119.071(2)(c). However, during an active investigation, such
20 information may be disclosed by the department in the
21 furtherance of its official duties and responsibilities; for
22 print, publication, or broadcast if the department determines
23 that such release would assist in notifying the public or
24 locating or identifying a person that the department believes to
25 have been a victim of the data breach; or to another
26 governmental agency in the furtherance of its official duties
27 and responsibilities.

28 (b) Notwithstanding subsection (a), the following
29 information received by the department shall remain confidential
30 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
31 Constitution after the completion of investigations:

32 1. All information to which another public records
33 exemption applies.

34 2. Personal information as such term is defined in this
35 section.

36 3. A computer forensic report.

37 4. Information that would otherwise reveal weaknesses in a
38 covered entity's data security.

39 5. Information that would disclose a covered entity's
40 trade secrets or proprietary information.

41 Section 2. The Legislature finds that it is a public
42 necessity that information held by the Department of Legal
43 Affairs pursuant to an investigation of a violation of s.

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44 501.170, Florida Statutes, relating to information security, be
45 confidential and exempt from public records requirements for the
46 following reasons:

47 (1) A data breach is likely the result of criminal activity
48 that likely will lead to further criminal activity. Notices
49 provided to the department and materials obtained during
50 investigations of a violation of s. 501.975, Florida Statutes,
51 are likely to contain proprietary information about the security
52 of the breached system. The release of the proprietary
53 information could result in the identification of
54 vulnerabilities and further data breaches of that system. This
55 exemption protects the security of the breached systems, thus
56 protecting the personal information of Floridians stored within
57 the systems.

58 (2) Notices provided to the Department of Legal Affairs
59 and materials obtained during investigations of a violation of
60 s. 501.975, Florida Statutes, may contain personal information
61 that could be used for the purpose of identity theft or some
62 other financial harm. The release of this information by the
63 department in response to a public records request could be just
64 as problematic as the data breach or improper disposal of
65 customer records. This exemption protects the security of the
66 personal information by excluding it from the public record
67 laws.

68 Section 3. This act shall take effect on the same date
69 that HB ____ or similar legislation takes effect, if such

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70 legislation is adopted in the same legislative session or an
71 extension thereof and becomes a law.

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T I T L E A M E N D M E N T

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Remove everything before the enacting clause and insert:

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An act relating to public records; amending s. 501.170, F.S.;

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providing exemptions from public records requirements for the

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notice of a data breach and information held by the Department

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of Legal Affairs pursuant to certain investigations; providing

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for disclosure under certain circumstances; providing for future

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legislative review and repeal of the exemption; providing a

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statement of public necessity; providing a contingent effective

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date.